

### **REMARKS**

This responds to the Office Action mailed February 23, 2006 in the above-identified application. Based on the following comments, reconsideration and allowance of the application are respectfully requested.

Claims 1-17 are currently pending in the application. Claims 1, 6-17 have been amended. Accordingly, claims 1-17 are pending for examination, with claims 1, 7, 8, 11, 12, 13 and 17 being independent claims.

### **Objections to the Drawings**

Applicant includes with this amendment replacement sheets for Figures 1, 5, 6, 7 and 10. These replacement sheets are attached to the end of this paper. Accordingly withdrawal of the objection to the drawings is respectfully requested.

### **Rejections Under 35 U.S.C. §101**

Claims 8-10, 12, 13, 14 and 17 stand rejected under 35 U.S.C. § 101 as purportedly being directed to non-statutory subject matter. Claims 8-10 and 12 have been amended to be directed to a computer-readable medium. Claims 13 and 14 have been amended to be more clearly directed to an apparatus programmed to perform certain functions. These claims do not embrace or overlap two different statutory classes as suggested by the Examiner. MPEP 2173.05(p) II, cited by the Examiner, is directed to when a single claim claims both an apparatus and the method of using the apparatus. Claims 13 and 14 are directed to an apparatus which performs certain functions; they are not directed to an apparatus and method for using the same. These claims are statutory and proper. Claim 17 is similarly directed to a computer and is statutory and proper. Accordingly, withdrawal of the rejection under § 101 with regards to the above claims is respectfully requested.

### **Rejections Under 35 U.S.C. §112**

Claims 13, 14 and 17 stand rejected as purportedly being directed to an apparatus and method for using the apparatus in violation of § 112. As explained above in reference to rejections under § 101, these claims are properly directed to an apparatus which performs certain functions and are not directed to both an apparatus and method steps of using the apparatus. These claims are statutory and proper. Accordingly, withdrawal of the rejection under § 112 with regards to these claims is respectfully requested.

Claim 15 also stands rejected for lacking sufficient antecedent basis for certain claim terms. Claim 15 originally depended from an incorrect claim. Claim 15 has been amended to correct its dependency. Accordingly, withdrawal of the rejection under § 112 with regards to this claims is respectfully requested.

### **Rejections Under 35 U.S.C. §102**

#### **General Overview**

Typically, programming choices have been—and continue to be—displayed to users in a grid form, where one axis of the grid represents the time of the program and the other axis represents the channel on which the program is being broadcast. However, with the ever-increasing number of available programs, this time-by-channel display system rapidly becomes unwieldy and insufficient. The present application is directed to a system and method for helping a user select from among a wide variety of programming options. The system displays programming choices to a user based on the user's programming preferences information, which is obtained and processed by the system. The user's programming preferences information is used, along with general information about what programs are available, to determine particular programs at particular times that would most appeal to the user. Those programs may then be displayed to the user in a grid where time is one axis and likely user preference is the other. This display system generates grids a user can reference to determine what programs are available at particular times that would most likely appeal to the user. An example of such a grid is shown in Figure 7.

These grids differ from previously existing grids in that their listings are not constrained by the channels of the particular programs. As shown in Figure 7, these grids may display programs from different channels on the same level on the preference axis of the grid. This display differs significantly from previous display systems whose grids were constrained by channel.

#### The Hendricks Reference

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as purportedly being anticipated by Hendricks, et al. (U.S. Patent No. 5,659,350). Applicant respectfully disagrees, and traverses as follows.

Hendricks is directed to an “Operations Center for television entertainment systems.” (Abstract). Hendricks discloses a system with a variety of features directed to the overall operation of a television system from the perspective of tracking user groups and assimilating information about those user groups rather than focusing on programming preference information of particular users. Indeed, even the sections of Hendricks cited by the Examiner focus on “How many viewers watched a particular program” (col. 15, line 48) or “demographic differences in the viewing audience.” (Col. 16, lines 11-12).

Hendricks does not disclose gathering a particular user’s programming preference information, nor does it disclose formatting listings information for presentation to the user based on that user’s programming preference information as claimed in claim 1. Claim 1 is directed to a system that implements this specific formatting of information for presentation to a user that is not taught, disclosed, or suggested by Hendricks. Claim 1 requires a first device which is programmed to accept information from a user on programming preferences, a data repository which accepts and stores this user programming preferences information and a server which formats listing information based on the user programming preferences information. Nowhere does Hendricks teach, disclose or suggest this accepting and storing of user programming preference information or the formatting of listing information based on the user programming preference information. Claim 1 is therefore allowable over Hendricks for at least this reason.

Similarly, claims 2-5, which depend from claim 1 are also allowable for at least the reason discussed above. Accordingly, withdrawal of this rejection with respect to claims 1-5 is respectfully requested.

#### The Alexander Reference

Claims 7-9 and 11-16 stand rejected under 35 U.S.C. § 102(e) as purportedly being anticipated by Alexander, et al. (U.S. Patent No. 6,177,931). Applicant respectfully disagrees, and traverses as follows.

The Examiner notes that Alexander teaches “creating a two dimensional grid where one axis (vertical axis, Figure 3) represents the time slots in which programs are available and a second axis (Horizontal Axis in Figure 3) represents a suggested preference order of the programs in each time slot.” (Office Action at 8, citing column 30, lines 53-58). Applicant respectfully disagrees. Alexander does not teach a second axis representing a suggested preference order of the programs. The portion of Alexander cited by the Examiner (Figure 3 and col. 30, lines 53-58), teaches displaying a second axis representing the channels: “The order in which the channel slots are presented can be customized” (col. 30, lines 54-56).

Applicant acknowledges that grids where the second axis represents listings by channels is known in the art. However each of independent claims 7, 8, 11, 12, and 13, claims a grid where the second axis represents a suggested preference order. In Alexander, although channels may be customized, the customized channel axis is constrained so that all the programs on a same channel appear in the same row. Conversely, each of claims 7, 8, 11, 12, and 13 recite that individual programs on different channels may appear together at the same point on the second axis. (This is illustrated in Figure 7 of the Application). Applicant has amended the claims to more particularly claim this aspect. Claims 7 and 8 state that “a program on a channel may be listed at a different location on the second axis from another program on the same channel in a different time slot”; claims 11 and 12 state that “a program on a channel may be listed at a different column and / or row on the grid from another program on the same channel”; claim 13 states that “a program on a channel may be listed at a different location on the second axis from another program on the same channel.”

Alexander does not teach, disclose or suggest listing a program from a channel on the second axis in a manner where another program from the same channel may be listed at a different location on the second axis. Claims 7, 8, 11, 12, and 13 are therefore allowable for at least this reason.

Similarly, claims 9 and 14-16 which depend from claims 7, 8, 11, 12, and 13 are also allowable for at least the reason discussed above. Accordingly, withdrawal of this rejection with respect to claims 7-9 and 11-16 is respectfully requested.

### **Rejections Under 35 U.S.C. §103**

#### **Claim 6**

Claim 6 stands rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Hendricks in view of Schein et al. (U.S. Patent No. 6,002,394). As claim 6 depends from claim 1, and incorporates its limitations, claim 6 is patentable for at least the same reasons as claim 1.

Claim 6 further distinguishes over Hendricks and Schein because claim 6 requires a grid “wherein a program on one channel may appear in the grid in a different row and / or column from another program on the same channel.” This limitation is not taught, disclosed or suggested by either Hendricks or Schein. Claim 6 is therefore patentable for this additional reason. Accordingly, withdrawal of this rejection with respect to claim 6 is respectfully requested.

#### **Claim 10**

Claim 10 stands rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Alexander in view of Cragun et al. (U.S. Patent No. 5,973,683). As discussed above in reference to claim 8, from which claim 10 depends, Alexander discloses a grid where the location of certain channels on a grid may be customized, but it does not disclose, teach or suggest a grid, “wherein a program on a channel may be listed at a different location on the second axis from another program on the same channel in a different time slot” as required by claims 8 and 10. Similarly Cragun does not teach, disclose or suggest this limitation.

Claim 10 is therefore allowable for at least this reason. Accordingly, withdrawal of this rejection with respect to claim 10 is respectfully requested.

Claim 17

Claim 17 stands rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Hendricks in view of Alexander. As discussed above, Alexander does not disclose, teach or suggest a grid, "wherein a program on a channel may be listed at a different location on the second axis from another program on the same channel" as required by claim 17. Similarly Hendricks does not teach, disclose or suggest this limitation.

Claim 17 is therefore allowable for at least this reason. Accordingly, withdrawal of this rejection with respect to claim 17 is respectfully requested.

**CONCLUSION**

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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- 12 -

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Respectfully submitted,

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Replacement Figures Attached

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